IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

APPEAL NO.1009 OF 2005
IN
NOTICE OF MOTION NO.2890 OF 2002
IN
SUIT NO.60 OF 2002

M/s.Manesh Power Equipment Pvt.Ltd. Appellants
vs.
1.Mr.Bipin Bhogilal Shah & ors. Respondents

Ms.K.C.Nichani i/b.Mr.Amit Sheth for the appellant.

Mr.Kishore Jain i/b.Mr.G.R.Mehta for the respondent no.1.

Ms.Alpana Ghone i/b.M/s.Kanga & Co. for the respondent no.2.

Mr.Kamal Khata i/b.M/s.Adhia & Adhia for the respondent no.3.

CORAM : R.M. LODHA &
D.G. KARNIK, JJ.

DATED : 1st December 2005

P.C.

Heard.

2. Though we are satisfied that no interference is called for in the appointment of Court Receiver in respect of the suit flat and that the appellant shall continue to remain in possession as an agent of the Court Receiver yet modification is required to the extent of the payment of royalty by the appellants. The appellants appear to be in possession of the suit flat since the year 1994 and, therefore, instead of asking

them to pay royalty, interest of justice shall be subserved, if the appellants are directed to pay the monthly rent and the outgoings to the receiver. We order accordingly.

3. Though it is not necessary but as desired by the counsel, it is further clarified that the observations made by the learned Judge in the impugned order being of prima facie nature shall not influence the decision in the Suit.

4. With the aforesaid clarification, the appeal is disposed of.

(R.M.LODHA, J.)

(D. G. KARNIK, J.)